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Posted on Thu, Dec. 23, 2004

**Ruling favors cigarette makers****N.C. JUDGE HOLDS PAYOUTS TO FARMERS ARE NOT REQUIRED**

ASSOCIATED PRESS

**RALEIGH** - The tobacco-quota buyout approved by Congress this year releases cigarette companies from making payments to farmers required under a landmark 1998 settlement, a North Carolina judge ruled yesterday.

The millions of dollars in Phase Two payments have compensated tobacco growers for losses they were expected to suffer under higher cigarette prices resulting from the agreement between major tobacco companies and the states.

Cigarette companies contend they weren't obligated to make a final \$189 million payment this month to farmers in 14 states because Congress approved a \$10.1 billion tobacco buyout this fall.


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North Carolina Business Court Judge Ben Tennille agreed and also ruled that the companies should get a refund on earlier 2004 payments.

Although the suit was being heard in a special state court in North Carolina, the ruling will apply to tobacco companies and farmers in other tobacco states, including Kentucky.

In 1999, the four major tobacco companies agreed to make \$5.15 billion in Phase II payments over 12 years to compensate growers and quota holders for losses stemming from the \$206 billion tobacco settlement approved the previous year.

Tobacco growers were counting on the final payment at the end of 2004, before the buyout takes effect.

"It's going to be a hard lick because most farmers went in anticipating to get a payment," said Jimmy Lee, president of the Contract Tobacco Growers Association. "I know that we've got this buyout coming, but that's in 12 months. It might be the law, but it's not the right thing to do."

Attorneys for the boards in the 14 states, as well as the trustees at JPMorgan Chase, argued that the companies aren't relieved of the Phase II payments until they make payments for the buyout to the U.S. Department of Agriculture. That won't happen until early 2005.

Tennille's decision was posted late last night on the court's Web site and dated Dec. 23.

"It would be far more pleasing to the Court to play the role of Santa's helper on this twenty-third day of December rather than be subjected to the inevitable comparison to the Grinch," Tennille wrote. "The court recognizes all too well that the delay ... will impose hardship on small farmers in particular."

An appeal of the ruling is likely, which would delay a final decision for months.

"I know this was a tough decision for Judge Tennille," North Carolina Agriculture Commissioner Britt Cobb said. "He took a lot of things into consideration."

Representatives of cigarette-makers Philip Morris, based in Richmond, Va., and Winston-Salem, N.C.-based Reynolds American, the two largest tobacco companies in the country, could not be reached for comment last night.